

Message Text

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ACTION EB-08

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FM AMEMBASSY BUENOS AIRES

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LIMITED OFFICIAL USE BUENOS AIRES 1251

C O R R E C T E D C O P Y (CHANGE MRN TO READ 1251 VICE 1261)

E.O. 11652: N/A

TAGS: EAIR, AR

SUBJECT: CIVAIR: BRANIFF QUOTAS

REF: (A) STATE 33333, (B) BUENOS AIRES 0113

1. IF EMBASSY UNDERSTANDS REFTEL CORRECTLY, PROPOSED CAB ORDER WOULD LEAVE AEROLINEAS ARGENTINAS WITH ONLY TWO WEEKLY FREQUENCIES BETWEEN BUENOS AIRES AND LOS ANGELES INSTEAD OF THE PRESENT SIX AND BAN ALL FLIGHTS VIA MEXICO CITY. THIS RESPONSE WOULD APPEAR TO US TO BE EXCESSIVE, IF THE PURPOSE IS TO BALANCE THE FIFTH FREEDOM QUOTA RESTRICTIONS PLACED BY ARGENTINA ON BRANIFF TRAFFIC FROM LA PAZ/BUENOS AIRES/LA PAZ SANTIAGO BUENOS AIRES/SANTIAGO. IN THE LATTER CASE, FREQUENCIES ARE NOT AFFECTED. WE ALSO WONDER, NOT HAVING THE STATISTICS AT HAND, IF VALUE OF TRAFFIC FORECLOSED TO BRANIFF BY GOA RESTRICTIONS WOULD NOT BE CONSIDERABLY LESS THAN VALUE OF TRAFFIC WHICH WOULD BE DENIED AEROLINEAS ARGENTINAS UNDER CAB ORDER, KEEPING IN MIND THAT CAB ORDER WOULD SEEMINGLY HAVE EFFECT OF BANNING THIRD AND FOURTH FREEDOM TRAFFIC AS WELL AS FIFTH FREEDOM. OUR CONCERN IS THAT GOA MIGHT VIEW U.S. ACTION AS PUNITIVE AND OUT OF PROPORTION TO

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MEASURE BEING COUNTERVAILED AGAINST. THIS COULD LEAD TO FURTHER RESTRICTIONS DIRECTED AGAINST BRANIFF AND PERHAPS AGAINST PAN AMERICAN.

2. WITH REFERENCE TO PARAGRAPH 5 OF REFTEL A, IT IS OUR UNDERSTANDING THAT THE ONLY FINE THUS FAR LEVIED AGAINST BRANIFF AMOUNTS TO \$10,000 ARGENTINE PESOS,

(ABOUT \$35), FOR HAVING TRANSPORTED IN 1975 MORE FIFTH FREEDOM TRAFFIC THAN THE SUM OF THIRD AND FOURTH FREEDOM (SEE REFTEL B). THIS FINE IS BEING APPEALED. A SECOND FINE IN THE SAME AMOUNT WAS RECENTLY LEVIED FOR SIMILAR VIOLATIONS DURING THE FIRST SIX MONTHS OF 1976. NO FINES HAVE BEEN FIXED FOR VIOLATIONS OF RES 85/71, THE REGIONAL QUOTA SYSTEM WITH WHICH WE ARE PRESENTLY CONCERNED, BECAUSE AS REPORTED IN REFTEL B VIOLATIONS OF THIS REGIME IN 1975 AND 1976 WERE FORGIVEN BY GOA. WE HAD THE IMPRESSION IN OUR TALKS WITH LARGHI THAT FAILURE TO COMPLY WITH THE FIRST SEMESTER QUOTAS OF 1977 WILL NOW BE SANCTIONED BY THE GOA WITH A FINE, ALSO PROBABLY NOMINAL, AND THEN ONLY AFTER THE SIX MONTHS' PERIOD HAS ENDED AND THE FINAL FIGURES ARE AVAILABLE. LOCAL BRANIFF MANAGER, HOWEVER, DOES NOT FEEL COMFORTABLE WITH A SITUATION IN WHICH HE IS KNOWINGLY VIOLATING A QUOTA REQUIREMENT AND THEREFORE WOULD LIKE TO INSTITUTE A MONTHLY RATIONING SYSTEM, AS HE HAS DONE IN PAST YEARS WHEN THIS SYSTEM WAS ENFORCED. SO THAT AT THE END OF THE SIX MONTH PERIOD HE WILL BE WITHIN THE LIMIT.

3. WE WILL INQUIRE AS TO THE MAXIMUM PENALTY ALLOWED UNDER THE LAW. WE WOULD NOT RULE OUT THE POSSIBILITY THAT GOA, VIEWING OUR ACTION AS EXCESSIVE, WOULD RETALIATE WITH MAXIMUM FINE. THE POSSIBILITY ALSO EXISTS OF RESTRICTIONS AGAINST PAN AMERICAN ON THE EAST COAST, AND CUT BACK IN FREQUENCIES OF BOTH AIRLINES. IT WOULD BE USEFUL TO THE EMBASSY, IN EXPLORING LIMITED OFFICIAL USE

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THE POSSIBILITY OF A STRONG REACTION, IF WE COULD TELL GOA AND PERHAPS AEROLINEAS ARGENTINAS WHAT IS NOW BEING CONTEMPLATED. WE NOTE, HOWEVER, THAT PART 213 ORDERS ARE NOT MADE PUBLIC BEFORE PRESIDENTIAL REVIEW AND WONDER IF THIS PROHIBITS US FROM ANY PRIOR CONSULTATIONS HERE. WE ARE ALSO UNCERTAIN AS TO HOW MUCH WE CAN DIVULGE TO LOCAL BRANIFF MANAGER.

4. LACKING CERTAIN BACKGROUND AND INFORMATION, EMBASSY IS RELUCTANT TO RECOMMEND ALTERNATE COURSE OF ACTION. IT WOULD SEEM TO US, HOWEVER, THAT FIFTH FREEDOM RESTRICTIONS IMPOSED AT LIMA, WITH WHAT WOULD AMOUNT TO ROUTE OR FREQUENCY CANCELLATIONS MIGHT BE A BETTER MEANS OF ACHIEVING THE GOAL. WE SEE POSSIBILITY THAT PERCEIVED OVERKILL WILL PROVOKE ARGENTINE ESCALATION. CHAPLIN

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